IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4062 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

M M GALCHAR

Versus

CONSERVATOR OF FOREST

Appearance:

1. Special Civil Application No. 4062 of 1988

MR MUKESH R SHAH for Petitioner No. 1

MR MA BUKHARI, AGP for Respondent No. 1-3

CORAM : MR.JUSTICE K.A.PUJ

Date of decision: 01/02/2003

ORAL JUDGEMENT

The petitioner has challenged the order of reversion dated 16-6-1987 (Annexure-F) on the ground that the copy of the inquiry report dated 27-2-1987 which is

referred to in the said order was not given to the petitioner. The petitioner has further raised a contention that no notice was issued calling for the explanation from the petitioner with regard to the punishment which was imposed on the petitioner.

At the time of hearing of this petition Mr.Shah, the learned advocate appearing for the petitioner has drawn my attention to the order dated 16-6-1987 wherein the respondent No.1 has referred to the Inquiry Officer's report dated 27-2-1987 and order passed on the said report was also referred to. It is further urged by Mr.Shah that the impugned order passed by the respondent No.1 is in violation of principles of natural justice, as neither the inquiry report was given to the petitioner nor any show cause notice was issued for the purpose of imposing punishment on the petitioner.

Mr.M.A.Bukhari, learned Assistant Government Pleader appearing for the respondent submits that a detailed note was prepared on 15-1-1987 and that was already given to the petitioner wherein it is stated that out of three charges levelled against the petitioner, two charges were proved. However, Mr.Bukhari is not in a position to make any positive statement as to whether the inquiry officers' report dated 27-2-1987 was given to the petitioner or not. At the time of hearing of this petition, the responsible officers from the office of the respondent have remained present along with necessary record, however, the said record does not point out as to whether such a report is there and whether a copy thereof has been given to the petitioner or not.

It is pointed out by Mr.Shah that the report dated 15-1-1987 is not the report of the Inquiry Officer but it is the report of the Presenting Officer submitted to the Inquiry Officer and on the basis of the report of the Presenting Officer, the Inquiry Officer has submitted his report on 27-2-1987, which was not given to the petitioner.

Heard the learned advocate Mr.Shah appearing for the petitioner and the learned Assistant Government Pleader appearing for the respondent. I am of the view that the order passed by the respondent No.1 is in violation of the principles of natural justice as the Inquiry Officers' report dated 27-2-1987 was not given to the petitioner and no show cause notice was given to the petitioner for imposing punishment for the charges which were proved against the petitioner, as per the Inquiry Officer's report. I, therefore, quash and set aside the

impugnmed order of reversion dated 16-6-1987 and direct the respondent No.1 to give the Inquiry Officer's report dated 27-2-1987 to the petitioner and also to issue show cause notice to the petitioner for imposing punishment for the charges so levelled and proved against the petitioner.

Since the present petition is decided only on this short point, other issues raised by the petitioner in this petition are not dealt with by this Court and it is open to the petitioner to raise all these issues before the authorities, while dealing with the Inquiry Officer's report and giving his explanation with regard to the punishment which is to be imposed.

With the above observations, this Special Civil Application is disposed of and rule is made absolute to the above extent with no order as to costs.

(K.A.Puj, J.)
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